

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Operating Engineers Local #49  
Health and Welfare Fund, Central  
Pension Fund of the International  
Union of Operating Engineers and  
Participating Employers, and Local #49  
International Union of Operating  
Engineers and Associated General  
Contractors of Minnesota  
Apprenticeship and Training  
Program, and their Trustees,

Plaintiff,

vs.

ORDER

Carroll Excavating, Inc., and  
Mary Lou Carroll, individually,

Defendants. Civ. No. 09-3153 (JNE/RLE)

\* \* \* \* \*

Based upon the Report and Recommendation of United States Magistrate Judge Raymond L. Erickson, and after an independent review of the files, records and proceedings in the above-entitled matter, it is --

ORDERED:

1. That the Plaintiffs' Motion for an Entry of Default Judgment, and for an Injunction [Docket No. 8] is granted.<sup>1</sup>
2. That, to the extent not previously completed, then, pursuant to Rule 55(b)(2), Federal Rules of Civil Procedure, the Defendants are directed to produce to the Plaintiffs, **by a timely date**

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<sup>1</sup>As we have already detailed, Carroll is individually liable only as to the Health and Welfare Fund and, to the extent that we recommend Judgment against her, our recommendation is limited solely to liability with respect to the Health and Welfare Fund contributions.

**certain**, a complete set of payroll and employment records for the Audit Period, that are necessary to permit the Plaintiffs to complete an audit disclosing the amount, if any, of unpaid benefit contribution payments that are owed to the Plaintiffs under the terms of the Collective Bargaining Agreement.

3. That, if this Recommendation is adopted, and after having had an opportunity to audit the books and records of Carroll Excavating, the Plaintiffs may move the Court for the entry of a money Judgment in the amount of unpaid contributions, liquidated damages, and reasonable attorney fees and costs, and the Plaintiffs should be directed to schedule an Evidentiary Hearing before the Court, at which time, the Plaintiffs shall offer proof of the amount of the Final Judgment which should be entered on their behalf.

BY THE COURT:

DATED: 7-6-2010

s/ Joan N. Ericksen  
Judge Joan N. Ericksen  
United States District Court